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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,515	05/24/2000	Muhammed A. Qureshi	Hernandez-Valencia 13-4-7	6419
7590 10/06/2004			EXAMINER NGUYEN, TOAN D	
Theodore Naccarella Synnestvedt & Lechner LLP 2600 Aramark Tower 1101 Market Street Philadelphia, PA 19107-2950			ART UNIT 2665	
DATE MAILED: 10/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/577,515	Applicant(s) QURESHI ET AL.	
	Examiner Toan D Nguyen	Art Unit 2665	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 10, 17, 18 and 26 is/are rejected.
- 7) ☒ Claim(s) 3-9, 11-16, 19-25 and 27-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ma et al (US 5,953,338).

For claim 1, Ma et al disclose dynamic control processes and systems for asynchronous transfer mode networks, comprising the steps of:

(1) identifying a first set of virtual pipelines (figure 7A, reference 702) for which traffic exceeds a predetermined threshold (figures 9A and 9B, col. 8 lines 13-21);

(2) for each virtual pipeline (figure 7A, reference 702) in said set, determining a number of additional channels (figure 7B, reference 703) needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 8 lines 27-30); and

(3) for each pipeline (figure 7A, reference 702) in said first set, assigning a corrective action (figure 7B, col. 12 lines 60-65) and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional channels (figure 7B, reference 703) (figure 10, reference 6, col. 12 lines 60-65 and col. 13 lines 42-50).

For claim 17, Ma et al disclose dynamic control processes and systems for asynchronous transfer mode networks, comprising the steps of:

means for identifying a first set of virtual pipelines for which traffic exceeds a predetermined threshold (figures 9A and 9B, col. 8 lines 13-21);

means for determining, for each virtual pipeline (figure 7A, reference 702) in said set, a number of additional channels (figure 7B, reference 703) needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 8 lines 27-30); and

means for assigning, for each pipeline (figure 7A, reference 702) in said first set, a corrective action (figure 7B, col. 12 lines 60-65) and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional channels (figure 7B, reference 703) (figure 10, reference 6, col. 12 lines 60-65 and col. 13 lines 42-50).

3. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (US 5,953,338) in view of Kim et al (US 6,256,310).

For claims 2 and 18, Ma et al do not disclose wherein step (3) comprises the steps of assigning a call gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold.

In an analogous art, Kim et al. disclose the steps of assigning a call gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold (col. 1 lines 37-40 and col. 1 lines 53-56).

One skilled in the art would have recognized a call gapping rate to use the teachings of Kim et al. in the system of Ma et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the call gapping rate as taught by Kim et al in Ma et al's system with the motivation being to provide maximum benefits to a network

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businessman, in view of a fact that service charges added is different according to the ATM transfer capabilities (col. 1 lines 40-43).

4. Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (US 5,953,338) in view of Szentesi (US 5,844,886).

For claims 10 and 26, Ma et al do not disclose wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network. In an analogous art, Szentesi discloses wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network (col. 2 lines 25-26). Szentesi discloses further wherein said corrective action comprises rerouting calls in said peripheral networks so that they pass through a different pipeline in said packet-based network (col. 2 lines 25-26 as set forth in claim 26).

One skilled in the art would have recognized rerouting calls to use the teachings of Szentesi in the system of Ma et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the rerouting calls as taught by Szentesi in Ma et al's system with the motivation being to provide additional revenue gains over that obtainable by partially rerouting traffic away from congested network links (Abstract lines 10-12).

***Allowable Subject Matter***

5. Claims 3-9, 11-16, 19-25 and 27-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Response to Arguments***

6. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

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